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*Attorneys for Plaintiff and Counter-defendant
Epic Games, Inc.*

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

EPIC GAMES, INC.,) Case No. 4:20-cv-05640-YGR-TSH
)
Plaintiff, Counter-defendant,) **EPIC GAMES, INC.’S TENTATIVE
) UPDATED TRIAL WITNESS LIST
)
v.) The Honorable Yvonne Gonzalez Rogers
)
APPLE INC.,) Trial: May 3, 2021
)
Defendant, Counterclaimant.)
)**

1 Pursuant to the Court's Pretrial Order No. 4 (ECF No. 468), Plaintiff and Counter-
2 Defendant Epic Games, Inc. ("Epic") files its tentative updated list of trial witnesses, other than
3 for impeachment or additional rebuttal, reserving its rights to supplement or amend its list for
4 good cause or in response to revisions by Apple Inc. ("Apple") to Apple's witness list and other
5 pre-trial disclosures. Epic also reserves the right to substitute deposition designations for live
6 testimony, and vice versa, including based on the availability or non-availability of any witness to
7 appear at trial. Epic has previously filed the curricula vitae of its expert witnesses and summaries
8 of their opinions (*see* ECF No. 376), and these materials are included in the Joint Trial Readiness
9 Binder within Epic's expert reports.

10 DATE: April 26, 2021

CRAVATH, SWAINE & MOORE LLP

11 /s/ Katherine B. Forrest
12 Katherine B. Forrest

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26 *Attorneys for Plaintiff and Counter-defendant*
27 *Epic Games, Inc.*

Fact Witnesses

<u>Witness</u>	<u>Epic's Brief Statement of Substance of Testimony</u>	<u>Estimated Length of Direct Examination</u>	<u>Estimated Length of Cross-Examination</u>	<u>Estimated Length of Re-Direct Examination</u>	<u>Appearance</u>	<u>"Will" Call/Use or "May" Call/Use</u>
<u>Epic Witnesses</u>						
Steve Allison, General Manager, Epic Games Store	Epic Games Store (business)	30 minutes	30 minutes	10 minutes	Live, in person	Will Call
Andrew Grant, Engineering Fellow	Epic's membership in the Apple Developer Program; engineering and development of Epic's products for various platforms; Epic Direct Payment on iOS	1 hour	30 minutes	10 minutes	Live, in person	Will Call
Thomas Ko, Senior Director, Head of Online Business Strategy and Operations	Epic's payment processing services; Apple's payment processing services; Epic Direct Payment on iOS	30 minutes	15 minutes	15 minutes	Live, in person	Will Call
Tim Sweeney, Founder and Chief Executive Officer	Epic's history and business; Epic's business discussions with Apple and Google; Epic Direct Payment on iOS; App	3 hours	3 hours	40 minutes	Live, in person	Will Call

EPIC GAMES, INC.'S TENTATIVE UPDATED TRIAL WITNESS LIST

Case No. 4:20-cv-05640-YGR-TSH

<u>Witness</u>	<u>Epic's Brief Statement of Substance of Testimony</u>	<u>Estimated Length of Direct Examination</u>	<u>Estimated Length of Cross-Examination</u>	<u>Estimated Length of Re-Direct Examination</u>	<u>Appearance</u>	<u>"Will" Call/Use or "May" Call/Use</u>
	Store policies and practices; Epic's marketing and promotional activities; Epic's efforts to compete in app distribution and in-app payment processing					
Matthew Weissinger, Vice President, Marketing	Epic's marketing and promotional activities; marketing and promotional support services offered by video game consoles and mobile operating system providers, including Apple	30 minutes	30 minutes	15 minutes	Live, in person	Will Call
Document custodian ¹	Admission of business records and other documents in Epic's possession, as necessary	5 minutes			Live, in person or may request leave to appear remotely.	May Call

¹ Epic expects that the parties will meet and confer regarding, and potentially stipulate to, the admission of business records and other documents, but Epic reserves its right to call witnesses to support the admission of business records and other documents, if necessary.

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<u>Apple Witnesses</u>						
Matt Fischer, Vice President, App Store	App Store business strategy; App Store financial performance; App Store policies and practices; Apple's market power over iOS developers; and/or the subjects of designated testimony	45 minutes	1 hour	30 minutes	Live, in person or by Deposition Designation	Will Call/Use
Trystan Kosmynka, Senior Director, App Review	App Store review policies and practices; iOS and macOS engineering, security and privacy issues; and/or the subjects of designated testimony	1 hour	2 hours	30 minutes	Live, in person or by Deposition Designation	Will Call/Use
Document custodian	Admission of business records and other documents in Apple's possession, as necessary	5 minutes			Live	May Call

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Case No. 4:20-cv-05640-YGR-TSH

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Eddy Cue, Senior Vice President, Internet Software and Services	The subjects of designated testimony, which include: lack of competition among mobile devices and mobile operating system software; App Store business strategy; App Store financial performance; current and historical App Store policies and practices; Apple's prior antitrust violations	1 hour	10 minutes		Deposition Designation	Will Use
Craig Federighi, Senior Vice President, Software Engineering	The subjects of designated testimony, which include: iOS and macOS engineering, security, privacy and competition issues; App Store policies and practices	15 minutes	5 minutes		Deposition Designation	Will Use

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Scott Forstall, Senior Vice President, iOS Software (former)	The subjects of designated testimony, which include: iOS and macOS engineering, security, privacy and competition issues; historical App Store policies and practices; Apple's in-app purchasing function	1 hour and 5 minutes	10 minutes		Deposition Designation	Will Use
Eric Friedman, Head of Fraud Engineering, Algorithms, and Risk	The subjects of designated testimony, which include: App Store review process; fraud and other abuse in Apple's ecosystem	30 minutes	5 minutes		Deposition Designation	Will Use

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Eric Gray, Director, Commerce, Subscriptions & Pricing	The subjects of designated testimony, which include: inefficiencies and lack of integration of Apple's payment processing services; app pricing and inelasticity of demand; fraud and other abuse in Apple's ecosystem	15 minutes	5 minutes		Deposition Designation	Will Use
C.K. Haun, Senior Director, Developer Technical Services	The subjects of designated testimony, which include: App Store review policies and practices; iOS and macOS engineering, security and privacy issues	50 minutes	5 minutes		Deposition Designation	Will Use

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Ron Okamoto, Vice President, Worldwide Developer Relations (former)	The subjects of designated testimony, which include: benefits Apple receives from other software developers, including Epic; Apple's market power over iOS developers	20 minutes	5 minutes		Deposition Designation	Will Use
Carson Oliver, Director of Business Management, App Store	The subjects of designated testimony, which include: App Store policies and practices; Apple's market power over iOS developers	10 minutes	5 minutes		Deposition Designation	Will Use
Shaan Pruden, Senior Director of Partnership Management and Worldwide Developer Relations	The subjects of designated testimony, which include: benefits that Apple receives from other software developers, including Epic	10 minutes	5 minutes		Deposition Designation	Will Use

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Mark Rollins, Finance Manager	The subjects of designated testimony, which include: Apple financials; App Store profit and loss statements	10 minutes			Deposition Designation	Will Use
Phillip Shoemaker, Technology Director, App Review (former)	The subjects of designated testimony, which include: historical App Store review policies and practices	55 minutes	15 minutes		Deposition Designation	Will Use

Third-Party Witnesses

Lori Wright, Vice President, Xbox Business Development, Microsoft Corporation	Distribution of software; Xbox video game console business and operations; Xbox cloud gaming, including xCloud and Game Pass; interactions with Apple	1 hour	1 hour	10 minutes	Live, in person	Will Call
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Benjamin Simon, Founder and Chief Executive Officer, Yoga Buddhi Co.	App distribution; participation in the Apple Developer Program; App Store review process; interactions with Apple	1 hour	30 minutes	10 minutes	Live, in person	Will Call
Aashish Patel, Director of Product Management, Nvidia Corporation	App distribution; Nvidia's GeForce Now service and business model; differences between streamed apps and locally hosted apps; differences between native apps and web apps; App Store review process; interactions with Apple; and/or the subjects of designated testimony	45 minutes	45 minutes	10 minutes	Live, in person	Will Call
Adrian Ong, Senior Vice President of Operations, Match Group	The subjects of designated testimony, which include: App distribution; participation in the Apple Developer Program; App Store review process; interactions with Apple;	1 hour and 15 minutes	5 minutes		Deposition Designation	Will Use

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	differences between native apps and web experiences; Match Group's payment processing capabilities; effects of Apple's 30% fee on Match Group and its users; user acquisition					

Expert Witnesses

<u>Witness</u>	<u>Summary of Theory and Conclusions and Bases Therefor and CV</u>	<u>Estimated Length of Direct Examination</u>	<u>Estimated Length of Cross-Examination</u>	<u>Estimated Length of Re-Direct Examination</u>	<u>Appearance</u>	<u>"Will" Call/Use or "May" Call/Use</u>
Susan Athey, Economics of Technology Professor, Stanford University Graduate School of Business	See expert disclosure served February 16, 2021 (ECF No. 376)	55 minutes	1.5 hours	30 minutes	Live, in person	Will Call
Ned S. Barnes, Managing Director, Berkeley Research Group	See expert disclosure served February 16, 2021 (ECF No. 376)	10 minutes	1 hour	20 minutes	Live, in person	Will Call

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Case No. 4:20-cv-05640-YGR-TSH

<u>Witness</u>	<u>Summary of Theory and Conclusions and Bases Therefor and CV</u>	<u>Estimated Length of Direct Examination</u>	<u>Estimated Length of Cross-Examination</u>	<u>Estimated Length of Re-Direct Examination</u>	<u>Appearance</u>	<u>“Will” Call/Use or “May” Call/Use</u>
Michael I. Cragg, Principal and Chairman, The Brattle Group	See expert disclosure served March 15, 2021 (ECF No. 376)	1 hour and 25 minutes	1 hour	20 minutes	Live, in person	Will Call
David Evans, Chairman, Global Economics Group	See expert disclosures served February 16, 2021 and March 15, 2021 (ECF No. 376)	4 hours and 30 minutes	4.5 hours	1 hour	Live, in person	Will Call
Wenke Lee, Chair, College of Computing, Georgia Institute of Technology	See expert disclosures served February 16, 2021 and March 15, 2021 (ECF No. 376)	1 hour	1 hour	20 minutes	Live, in person	Will Call
Nancy A. Mathiowetz, Professor Emerita, Department of Sociology, the University of Wisconsin-Milwaukee	See expert disclosure served March 15, 2021 (ECF No. 376)	10 minutes	30 minutes	20 minutes	Live, in person	Will Call
James Mickens, Professor of Computer Science, Harvard University	See expert disclosure served February 16, 2021 (ECF No. 376)	1 hour	1 hour	20 minutes	Live, in person	Will Call

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Case No. 4:20-cv-05640-YGR-TSH

1	<u>Witness</u>	<u>Summary of Theory and Conclusions and Bases Therefor and CV</u>	<u>Estimated Length of Direct Examination</u>	<u>Estimated Length of Cross- Examination</u>	<u>Estimated Length of Re- Direct Examination</u>	<u>Appearance</u>	<u>“Will” Call/Use or “May” Call/Use</u>
2	Peter E. Rossi, Professor of Marketing, Economics and Statistics, UCLA	See expert disclosure served February 16, 2021 (ECF No. 376)	10 minutes	30 minutes	20 minutes	Live, in person	Will Call

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